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E. O. 11652: GDS, DECLAS DEC. 31, 1974

TAGS: TECH, GW, ENRG, EEC

SUBJ: FRG PROTEST OF PROPOSED URANIUM ENRICHMENT CRITERIA

1. FRG EMBASSY SCIENCE COUNSELOR GOTTSTEIN ON MARCH 9
DELIVERED FOLLOWING AIDE MEMOIRE TO POLLACK, SCI:

" THE ENTIRE NUCLEAR ENERGY POLICY OF THE EUROPEAN
COMMUNITY AND THEREBY ALSO OF THE FEDERAL REPUBLIC OF
GERMANY HAS BEEN BASED ON LONG- TERM ASSURANCES BY THE
UNITED STATES, SOME OF THEM MADE A CONSIDERABLE TIME AGO,
THAT THE UNITED STATES WILL PROMOTE THE DEVELOPMENT OF
NUCLEAR ENERGY IN THE WORLD AND IN THE COMMUNITY AND THAT
THE UNITED STATES GUARANTEES, IN PARTICULAR, TO SUPPLY
EUROPE WITH ENRICHED URANIUM ON A LONG- TERM BASIS AT STABLE
AND NON- DISCRIMINATORY CONDITIONS. THE FEDERAL REPUBLIC OF
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GERMANY WILL, IN THE FUTURE, HAVE THE GREATEST CONSUMPTION OF NUCLEAR ENERGY IN THE EUROPEAN COMMUNITY.

" THE FOLLOWING DOCUMENTS MAY BE MENTIONED:

"1.) THE ATOMIC ENERGY ACT OF 1954 INCLUDING ITS VARIOUS AMENDMENTS.

"2.) THE DECLARATIONS BY PRESIDENT EISENHOWER OF FEBRUARY 22, 1956, AND NOVEMBER 18, 1956,

REGARDING ASSURANCE OF UNITED STATES WILLINGNESS TO SUPPLY ENRICHED URANIUM.

"3.) AGREEMENT OF COOPERATION BETWEEN EURATOM AND THE UNITED STATES OF MAY, 1958, INCLUDING VARIOUS ALTERATIONS AND AMENDMENTS, THE LAST ONE BEING OF NOVEMBER, 1972.

"4.) THE EURATOM COOPERATION ACT OF 1958 WITH ITS SUPPLEMENTARY REGULATIONS, THE LAST ONES BEING OF 1967.

"5.) ANNOUNCEMENT OF THE U. S. ATOMIC ENERGY COMMISSION OF 1968 WITH THE ASSURANCE THAT URAN WILL BE DELIVERED FIVE YEARS IN ADVANCE OF USE.

"6.) CONFIRMATION OF THESE ASSURANCES DURING THE NEGOTIATIONS ON THE NON- PROLIFERATION- TREATY. IN PARTICULAR THE LETTER BY SECRETARY OF STATE DEAN RUSK TO FOREIGN MINISTER WILLY BRANDT OF APRIL 4, 1967, SHOULD BE REFERRED TO IN THIS CONTEXT.

" THE CONSEQUENCES OF THESE ASSURANCES WERE A STRONG DEVELOPMENT OF EUROPEAN NUCLEAR INDUSTRY IN CLOSE CO-OPERATION WITH THE UNITED STATES AND A PRACTICAL ABANDONMENT OF HEAVY WATER REACTORS IN FAVOR OF LIGHT WATER REACTORS WHICH REQUIRE ENRICHED URANIUM.

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" THIS DEVELOPMENT WHICH WAS STARTED TRUSTING AND

RELYING ON THE UNITED STATES ASSURANCES WILL HAVE EFFECTS IN ENERGY POLICY THAT WILL ONLY FULLY BE FELT IN THE YEARS TO COME. WE NOW SEE THIS DEVELOPMENT SERIOUSLY ENDANGERED BY THE ALTERATION OF SUPPLY CONDITIONS FOR ENRICHED URANIUM PROPOSED BY THE U. S. ATOMIC ENERGY COMMISSION. OUR CONCERN IS THE DEEPER AS THE IMPERILMENT OF A DEVELOPMENT BEGUN IN FULL CONFIDENCE AND TRUST IN ASSURANCES OF THIS KIND MIGHT HAVE REPERCUSSIONS BEYOND THE COMMERCIAL SECTOR.

" SOME OF THE NEW SUPPLY CONDITIONS HAVE PARTICULARLY ONEROUS RESULTS:

" A.) A PROJECT COMMITMENT DOES NOT SEEM POSSIBLE UNDER A DELIVERY RESPITE OF EIGHT YEARS. BECAUSE TWO YEARS ARE NEEDED FOR THE PRODUCTION

OF FUEL ELEMENTS, THIS WOULD MEAN AN ACCEPTANCE COMMITMENT TEN YEARS BEFORE A NUCLEAR POWER STATION CAN GO INTO PRODUCTION, I. E. FOUR YEARS IN ADVANCE OF THE CONSTRUCTION CONTRACT AND 5 YEARS BEFORE THE CONSTRUCTION LICENSE IS GRANTED.

" A PREREQUISITE FOR THE DECISION TO BUILD ANY PARTICULAR NUCLEAR POWER STATION IS A KNOWLEDGE OF THE ENERGY DEMAND TO BE EXPECTED. A RELIABLE ESTIMATE, HOWEVER, OF A REGIONAL ENERGY DEMAND CANNOT BE MADE TEN YEARS AHEAD OF TIME. IT WOULD NOT BE COMPATIBLE WITH AN ECONOMICALLY SOUND OPERATION.

" A BUYING COMMITMENT FOR AN ADDITIONAL TEN YEARS BOUND TO A PARTICULAR PROJECT DOES NOT APPEAR ACCEPTABLE EITHER. IT WOULD NOT ALLOW AN ADAPTATION TO A FLUCTUATING REGIONAL DEMAND NOR TO A CHANGE FROM CONTINUOUS OPERATION TO PART- TIME- OPERATION AS MIGHT BE NECESSITATED FOR REASONS OF SMOOTHING OUT PEAK DEMANDS. MOREOVER, WE CANNOT DETECT ANY REASON FOR SUCH RESTRICTION TO A GIVEN PROJECT, PARTICULARLY AS NON- PROLIFERATION CONSIDERATIONS SHOULD BECOME OBSOLETE AFTER RATIFICATION OF THE LIMITED OFFICIAL USE

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NON PROLIFERATION TREATY.

" B.) A COMMITMENT FOR, ALTOGETHER, 18 YEARS WOULD ALSO, INDEPENDENTLY OF PROJECT BINDING, BE UNACCEPTABLE FOR INDIVIDUAL UTILITIES UNDER

FIXED- AMOUNT- CONTRACTS.

" THESE LONG DEADLINES IN CONNECTION WITH THE OBLIGATION TO ACCEPT FIXED AMOUNTS OF MATERIAL AT PRESENT DATES AND WITH THE PROPOSED FREEDOM FOR THE ATOMIC ENERGY COMMISSION TO FIX PRICES CONSTITUTE AN EXCESSIVE DISPOSITION RISK FOR THE UTILITIES. THE EXTENT OF THIS RISK WITH RESPECT TO DISBENEFITS AND ECONOMIC CONSEQUENCES CANNOT BE ASSESSED OVER SUCH LONG PERIODS OF TIME. IN THE CASE OF DELAYS IN THE BEGINNING OF OPERATION OR OF TEMPORARY OR PERMANENT SHUTDOWNS THE UTILITY WOULD HAVE TO BEAR THE CONSIDERABLE COSTS RESULTING FROM THE ACCEPTANCE OF NON- REQUIRED SEPARATION WORK OR FROM CONTRACT CANCELLATION IN ADDITION TO THE LOSSES FROM THE STOP OF PRODUCTION.

C.) THE DEADLINE OF 180 DAYS PROPOSED FOR THE ANNOUNCEMENT OF CHANGES IN THE TAILS ASSAY CANNOT BE MET. IF THE TAILS ASSAY IS RAISED AN INCREASED AMOUNT OF NATURAL URANIUM MUST

BE SUPPLIED BY THE UTILITY. THIS NATURAL URANIUM HAS TO BE CONVERTED IN THE GASEOUS PHASE BY A PROCESS LASTING SEVERAL MONTHS.

CONSIDERING ALL THESE CIRCUMSTANCES WE WOULD BE GRATEFUL IF THE GOVERNMENT OF THE UNITED STATES WOULD RECONSIDER THE NEW DELIVERY CONDITIONS PROPOSED BY THE ATOMIC ENERGY COMMISSION. IN THIS IT IS OUR OPINION THAT THE PROPOSED BINDING TO A PARTICULAR PROJECT SHOULD BE DROPPED.

" THE TIME BETWEEN SIGNATURE OF CONTRACT AND DELIVERY SHOULD NOT BE 8 YEARS BUT ADAPTED TO THE USUAL CONSTRUCTION SCHEDULE OF NUCLEAR POWER STATIONS.

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" CONSIDERING THE LONG COMMITMENT PERIODS, A POSTPONEMENT OF THE DELIVERY DATES FOR THE FIXED AMOUNTS OF MATERIAL UNDER CONTRACT SHOULD BE POSSIBLE IN CASES OF DELAYS IN THE BEGINNING OF OPERATION, OF SHUT- DOWNS OF LONGER DURATION, OR OF BASIC ALTERATIONS IN THE MODE OF OPERATION OF A NUCLEAR POWER STATION.

" THE PERIOD OF 180 DAYS IN CASES OF ALTERATION OF TAILS ASSAY SHOULD BE PROLONGED TO APPROXIMATELY TWO

YEARS.

" THE UTILITY SHOULD HAVE AN EXTRAORDINARY, NON-PENALIZED RIGHT OF CANCELLATION IN THE CASE OF A CHANGE OF PRICES OR DELIVERY CONDITIONS THAT WOULD HAVE A DISCRIMINATORY EFFECT OR THAT WOULD, IN A WAY UNFAIR TO THE UTILITY, DIFFER FROM EXISTING MARKET CONDITIONS."

2. NOTING THAT THE STATUTORY 45- DAY PERIOD FOR REVIEW OF THE PROPOSED CRITERIA BY JOINT COMMITTEE ON ATOMIC ENERGY WILL EXPIRE MARCH 14, GOTTSTEIN EXPRESSED ANXIETY THAT AEC MIGHT PUBLISH THE NEW CRITERIA IN FEDERAL REGISTER, OR TAKE SOME OTHER DEFINITIVE ACTION ESTABLISHING THESE CRITERIA, SHORTLY AFTER MARCH 14. HE SAID THAT GERMAN INDUSTRY HAD MADE ITS CONCERNS KNOWN TO AEC BUT THE FRG HAD ONLY RECENTLY FOCUSED ON THE POSSIBLE BROADER CONSEQUENCES OF THE PROPOSED CRITERIA. HE THEREFORE REQUESTED THAT STATE DEPARTMENT URGE AEC TO DEFER ANY SUCH ACTION FOR A SUFFICIENT PERIOD TO PERMIT THE FRG TO DISCUSS WITH USG THE CONSEQUENCES OF THE NEW CRITERIA AND TO ELIMINATE POSSIBLE MISUNDERSTANDINGS.

3. POLLACK NOTED THE GERMAN REQUEST WITHOUT COMMENT. ROGERS

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